

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00169-MR-WCM**

MARCIA BALLARD,

Plaintiff,

vs.

HENDERSON COUNTY DSS, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on the Plaintiff's Motion to Reconsider. [Doc. 8].

On June 29, 2021, the Plaintiff, Marcia Ballard ("Plaintiff") initiated this action and moved to proceed without the prepayment of fees and costs. [Doc. 1; Doc. 2]. On July 19, 2021, the Court entered an Order concluding that the Plaintiff's Complaint was subject to dismissal pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and that the Plaintiff had adequate resources with which to pay the required filing fee. [Doc. 3 at 4-5]. The Court gave the Plaintiff thirty (30) days to amend her Complaint and pay the required filing fee. [*Id.* at 5-6]. The Plaintiff paid the filing fee on August 12, 2021, but the Plaintiff did not amend her Complaint within the time

required. Accordingly, on August 27, 2021, the Court dismissed the Plaintiff's Complaint without prejudice. [Doc. 4].

On September 24, 2021, the Plaintiff filed a letter asking the Court to appoint counsel to represent her and requesting to "appear in person before [the Court] in any matter pertaining to [her]." [Doc. 6 at 1]. This Court construed the Plaintiff's letter as both a motion for the appointment of counsel and a motion to appear. [Doc. 7]. On September 27, 2021, the Court denied the Plaintiff's motions. [Id.].

The Plaintiff has now filed a Motion to Reconsider, "asking to have the [Court's] previous decision reversed . . . [and] asking to have [the] case heard with legal council [sic] appointed to help Plaintiff file" an amended complaint. [Doc. 8]. Because the Plaintiff does not state which of the Court's Orders she is referring to in her motion, the Court will construe the Plaintiff's motion broadly as a motion to reconsider both the Court's August 27, 2021 Order, [Doc. 4], dismissing the Plaintiff's Complaint and the Court's September 27, 2021 Order, [Doc. 7], denying the Plaintiff's motion for the appointment of counsel and motion to appear.

Upon review of the Plaintiff's Motion, the Court finds no basis in law to reconsider its prior Orders. As the Court previously noted, [Doc. 3 at 4; Doc. 4 at 2], the Plaintiff's Complaint failed to provide basic details about how her


constitutional rights were violated, including when, where, or how the alleged incidents giving rise to her claims occurred. The Plaintiff failed to cure these deficiencies within the time required. The Plaintiff is not now entitled to the appointment of counsel in this action absent a showing of “exceptional circumstances.” Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987) (“[A] plaintiff does not have an absolute right to appointment of counsel. In the district court a plaintiff must show that his case is one with exceptional circumstances.”).

ORDER

IT IS, THEREFORE, ORDERED that the Plaintiff’s Motion to Reconsider [Doc. 8] is **DENIED**.

IT IS SO ORDERED.

Signed: October 28, 2021



Martin Reidinger
Chief United States District Judge

